145 Ind. 287, 297, 44 N. E. 462, 465. And annulment is therefore a necessary remedy, as it would seem contrary to public policy to condemn the defrauded party to a perpetual and unhappy association with the wrongdoer. See *Robertson v. Cole* (1854) 12 Tex. 356, 364. It appears impossible to form a definite rule for a question so complicated by particular circumstances. See 1 Blackstone, *Commentaries* (Cooley's 2d ed. 1872) 438, note. But the differences between marriage and other contracts are due to the great importance of the marriage relation itself. *Cf.* 18 R. C. L. 385; *Randall v. Kreiger* (1874) 90 U. S. 137, 147; *Maynard v. Hill* (1888) 125 U. S. 190, 205, 8 Sup. Ct. 723, 726. And, under the circumstances of the instant case it seems sound to hold the marriage voidable for such fraud as would render a contract voidable. The decision appears to tend to improve the marriage status more than to endanger its permanence, but the rule should be carefully limited.

PERSONS—HUSBAND AND WIFE—ALIENATION OF AFFECTIONS—SEPARATION NO DEFENSE.—The plaintiff, a married woman, sued another woman for the alienation of her husband's affections. The declaration set forth an interference by the defendant with the marital relation while husband and wife were living together, and a wilful continuance of that influence after they had separated. The plaintiff's request to instruct the jury that separation or unhappiness between husband and wife was no defense to the action was refused. *Held,* that such instruction should have been given. *Dey v. Dey* (1920, N. J. Sup. Ct.) 110 Atl. 703.

At common law it was well settled that a wife could not maintain an action for the alienation of her husband's affections, because the husband by virtue of his position would be joined as party plaintiff, and recover damages for his own wrong. See *Haynes v. Nowlin* (1891) 129 Ind. 581, 584, 29 N. E. 389, 390; (1918) 32 HARV. L. REV. 576. In most jurisdictions, however, the enactment of Married Women's Property Acts has been held to create in the wife a right to sue for alienation of affections. *Haynes v. Nowlin, supra.* The mere alienation of affections, unaccompanied by adultery, enticing, or procuring, has been held to be insufficient to maintain the action. *Houghton v. Rice* (1899) 174 Mass. 366, 54 N. E. 843. The weight of authority, however, permits the plaintiff to recover for the mere alienation of the spouse's affections. *Adams v. Main* (1892) 3 Ind. App. 232, 29 N. E. 792; *Rinehart v. Bills* (1884) 82 Mo. 534, 52 Am. Rep. 385. The decisions are not agreed as to whether evidence of a lack of conjugal affection at the time of the defendant's interference is a bar to the action. A few jurisdictions refuse to recognize the defendant's duty not to hinder, under the circumstances, the possibility of reconciliation between husband and wife. *Servis v. Servis* (1902) 172 N. Y. 438, 65 N. E. 270; *Hall v. Smith* (1913) 80 Misc. Rep. 85, 140 N. Y. Supp. 796. The principal case is in line with the majority rule in holding that a blameless spouse, after separation, has a right against interference with the marital relationship by the defendant, and that a lack of affections, or a separation, affects only the question of damages. *Moelleur v. Moelleur* (1918) 55 Mont. 30, 173 Pac. 419. Where, however, the plaintiff's own infidelity or cruelty is the moving cause of the separation, the other spouse is privileged to live apart. *Rodgers v. Rodgers* (1920, N. Y.) 128 N. E. 117. And it follows that under those circumstances the defendant's acts would also be privileged. *Smith v. Rice* (1916) 178 Ia. 673, 160 N. W. 6. See (1918) 28 YALE LAW JOURNAL, 88.

PRIVATE CORPORATIONS—IMPLIED POWERS—GUARANTY OF CUSTOMER'S INDEBTEDNESS.—The defendant corporation was chartered to "deal in lumber and other building materials both at wholesale and retail, and generally to do and perform

all matters and things incident or necessary in such business." The defendant corporation became surety on a building contractor's bond, and he promised to buy the materials for the building from it. This was an action on the bond. *Held,* that the plaintiff should not recover, because this was an indirect method of fostering the defendant's business, and hence *ultra vires. Bowman Lumber Co. v. Pierson* (1920, Tex.) 221 S. W. 930.

It is a well-settled general rule that in addition to its express powers a corporation has the implied powers to do whatever is reasonably adapted to further the enterprise for which it was chartered. There are various tests for determining whether a certain act by a business corporation, calculated to foster its business, is *ultra vires.* In the instant case the court requires such act to be a *direct* attempt to secure business. In a case involving identical facts the Supreme Court of Washington held the question to be one of business custom and found that the custom on Puget Sound at that time made it necessary for a lumber corporation to guarantee the bonds of contractors in order to secure their business, because non-corporate lumber companies customarily did so. *Wheeler, Osgood & Co. v. Everett Land Co.* (1896) 14 Wash. 630, 45 Pac. 316. The power of business corporations to enter into contracts of suretyship for the benefit of customers or prospective customers has frequently been upheld. 27 L. R. A. (N. S.) 186, note. The question has been most frequently adjudicated where a brewery corporation has signed the lease or bond of a saloon keeper in exchange for his promise to sell only the products sold by the corporation. Such contracts of guaranty are generally held valid. *Timm v. Grand Rapids Brewing Co.* (1910) 160 Mich. 371, 125 N. W. 357; *Miller v. Northern Brewing Co.* (1917, D. Ore.) 242 Fed. 164; *Holm v. Claus Lipsius Brewing Co.* (1897) 21 App. Div. 204, 47 N. Y. Supp. 518. It is sometimes said that where the special circumstances make it reasonably necessary for the corporation to guarantee its customers' indebtedness it has power to do so. So a corporation authorized to own patents and license their use can become surety for a licensee of its patents in order to tide the licensee over a period of depression. *Edwards v. International Pavement Co.* (1917) 227 Mass. 206, 116 N. E. 266. But it is submitted that this calls for no more than an investigation as to the business custom. "The objection to the guaranty is that it risks the funds of the company in a different enterprise and business under the control of another and different person or corporation, contrary to what its stockholders, its creditors, and the state have the right from its charter to expect." See *Humboldt Min. Co. v. American Manufacturing, Mining & Milling Co.* (1894, C. C. A. 6th) 62 Fed. 356, 362. But it is also to the interest of each of these parties that the corporation be financially successful, and it should therefore be allowed to meet competition of non-corporate companies by doing those things which business custom dictates.

SALES—"C. I. F." CONTRACTS—RISK OF SHIPMENT ON THE BUYER.—The plaintiff shipped to the defendant 325 drums of fish under a contract calling for 1025 drums "c. i. f." ("cost, insurance, and freight") Philadelphia. Immediately after shipment the plaintiff forwarded to a bank in Philadelphia the insurance policy, the invoice and a through bill of lading, all indorsed in blank and attached to a sight draft on the defendant. The ship was sunk two days after shipment and the goods were totally destroyed. The bill of lading and the sight draft were duly tendered to the defendant after the destruction of the cargo, but he refused to accept the draft or pay any part thereof, whereupon this suit was instituted for the value of the shipment. *Held,* that the plaintiff should recover. *Smith & Co. v. Marano* (1920, Pa.) 110 Atl. 94.